

STATE OF CALIFORNIA

Public Utilities Commission
San Francisco

M e m o r a n d u m

Date: June 28, 2005

To: The Commission
(Meeting of June 30, 2005)

From: Delaney L. Hunter, Director
Office of Governmental Affairs (OGA) — Sacramento

**Subject: AB 1388 (Ridley-Thomas) Teleconnect Fund: Specified Grant
Programs**
As Amended May 27, 2005

LEGISLATIVE SUBCOMMITTEE RECOMMENDATION: Support if amended

SUMMARY: This bill would establish two new California Teleconnect Fund (CTF) programs - the Community Based Supplemental Education Demonstration Grant Program and the Telemedicine Demonstration Grant Program - until January 1, 2013. These programs would be funded from the repayment of the \$150,000,000 loaned by the CTF to the General Fund in the annual Budget Act of 2003. Awards under the two programs would be used exclusively for providing advanced telecommunications networks to community technology programs that deliver supplemental education services to students in grades 6 to 12 and to health care facilities that offer telemedicine services.

DIVISION ANALYSIS (Telecomm):

- The grant programs that would be established by this bill have worthy goals:
 - The Community Based Supplemental Education Demonstration Grant Program would provide “online learning resources” to pupils in grades 6 to 12 that include, among other things, online courses and online tutoring in areas required for graduation from middle school or high school, and employment.
 - The Telemedicine Demonstration Grant Program would provide health care delivery, diagnosis, consultation, treatment, transfer of medical data, and education using interactive audio, video, or data communications, consistent with Business and Professions Code Section 2290.5.

- However, the bill contains no specific appropriation and no urgency to establish the two programs. Rather, it would tie the repayment of the monies owed to the CTF by the General Fund to a necessarily unspecified level of activity in the two new programs.
- It appears that the Commission will have to ask the Department of Finance (DOF) and the Legislature for specific appropriations to fund annually the two new programs from the repayment of the loans, which is further complicated by a required three-year grant cycle.
- Also, under current law, the Commission can only raise surcharge rates under its own authority to fund the CTF program if the DOF does not order repayment of the loans to CTF.
- The \$500,000 cap per fiscal year on administration costs for each grant program may not be sufficient:
 - In addition to two third-party administrators, two Commission staff (expected to be at the PURA IV and III level) would be needed to: (1) support the programs; (2) review the annual reports of the grant recipients; (3) evaluate the effectiveness of the programs; and (4) report to the Governor and the Legislature on the results and effectiveness of the programs.
- Note that the bill requires the Commission to adopt rules, procedures, and criteria for the programs, which would entail, at a minimum, a resolution, and possibly a rulemaking. This task can be very time consuming and complex.
- While the bill language characterizes the CTF Administrative Committee (CTF AC) as an advisory body, AB 1388 may change the existing relationship between the Commission and the CTF AC. The CTF AC will be heavily involved with the Commission in the development of the request for proposal and questionnaires to solicit contractors to become third-party administrators, as well as the development of the program elements, which is a lengthy process due to the complexity of the issues involved.
- On May 5, 2005, the Commission submitted a report to the Governor and Legislature, entitled "Broadband Deployment in California." This report was the product of SB 1563 (Polanco), enacted by the Legislature in 2002, which required the Commission to convene a proceeding to develop a plan for encouraging the widespread availability and use of advanced communications infrastructure. In light of the findings and recommendations of the report, AB 1388 might focus limited resources too narrowly and thus hamper the Commission's ability to implement a more comprehensive approach to bridging the digital divide.

RECOMMENDED AMENDMENT:

Staff recommends that we work with the author to restore funding in the bill for the proposed grant programs by requiring the DOF to repay to the CTF at least \$10,000,000 annually of the \$150,000,000 loaned by the CTF to the General Fund. (This would revert AB 1388 back to the funding provisions outlined in its May 2, 2005 version.)

LEGISLATIVE HISTORY:

During the budget crisis in 2003, the Legislature exercised its authority to prioritize the use of limited public funds and directed DOF to make reductions in all funds in order to ensure it met its highest statewide priorities. As a result, \$150 million was loaned from CTF to GF. The \$150 million loan from CTF has not been paid back because the conditions outlined in Government Code Section 16320 have not been met: PUC has not shown a need, and there is still a need for the moneys in GF.

PROGRAM BACKGROUND:

CTF is one of six public-purpose surcharge funds administered by the CPUC. In order to advance universal service, CTF provides a 50% discount on certain telecommunications services for schools, libraries, health-care institutions, and other specified community-based organizations. The covered services range from basic telephone service to high-speed transmission lines for data services.

The CTF AC is an advisory board that advises the Commission regarding the development, implementation, and administration of the program, and carries out the program pursuant to the Commission's direction, control, and approval.

STATUS: This bill has passed the Assembly, and is now scheduled to be heard in the Senate Energy, Utilities, and Communications Committee on June 30, 2005.

SUPPORT/OPPOSITION: (As of April 25, 2005)Support:

California Community Technology Policy Group (Sponsor)
North Coast Clinics Network

Opposition:

None on file.

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Date: June 28, 2005

BILL LANGUAGE:

BILL NUMBER: AB 1388 AMENDED
BILL TEXT

AMENDED IN ASSEMBLY MAY 27, 2005
AMENDED IN ASSEMBLY MAY 2, 2005
AMENDED IN ASSEMBLY APRIL 21, 2005
AMENDED IN ASSEMBLY APRIL 7, 2005

INTRODUCED BY Assembly Member Ridley-Thomas

FEBRUARY 22, 2005

An act to ~~add Section 16320.5 to the Government Code, and~~
~~to~~ amend Section 280 of, and to add and repeal Section
280.1 of, the Public Utilities Code, relating to telecommunications.

LEGISLATIVE COUNSEL'S DIGEST

AB 1388, as amended, Ridley-Thomas. Telecommunications:
California Teleconnect Fund Administrative Committee Fund: Community
Based Supplemental Education Demonstration Grant Program and
Telemedicine Demonstration Grant Program.

Existing law establishes the California Teleconnect Fund
Administrative Committee to advise the Public Utilities Commission
regarding the commission's responsibilities for the development,
implementation, and administration of a program to advance universal
telephone service by providing discounted rates to qualifying
schools, libraries, hospitals, health clinics, and community
organizations. Existing law establishes the California Teleconnect
Fund Administrative Committee Fund in the State Treasury, and
provides that moneys in the fund, collected by telephone corporations
in utility rates authorized by the commission and deposited into the
fund, may only be expended for the purposes authorized, upon
appropriation in the annual Budget Act. The annual Budget Act for
2003 provided for a loan of \$150,000,000 to the General Fund from the
California Teleconnect Fund Administrative Committee Fund. Existing
law provides for the repayment of that loan.

This bill would ~~provide that the moneys loaned by the~~
~~fund to the General Fund in the annual Budget Act of 2003, be repaid~~
~~to the fund in annual amounts of at least \$10,000,000 principal on~~
~~the loan, and interest on the loan. The~~ authorize the
commission ~~would be authorized~~ to establish,
until January 1, ~~2023~~ 2013 , a
Community Based Supplemental Education Demonstration Grant Program
and a Telemedicine Demonstration Grant Program, meeting certain
requirements, with all funding for the programs coming from the
moneys repaid to the fund from the moneys loaned by the fund to the
General Fund in the annual Budget Act of 2003. Awards under the grant
programs would be for the use of advanced telecommunications
networks to deliver supplemental education services to pupils and
to provide telemedicine services.

Under existing law, a violation of the Public Utilities Act or an
order or direction of the commission is a crime.

Because the provisions of this bill would be a part of the act and
because a violation of an order or decision of the commission
implementing its requirements would be a crime, the bill would impose

a state-mandated local program by creating a new crime.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

~~SECTION 1. Section 16320.5 is added to the Government Code, to read:~~

~~16320.5.~~

~~(a) Notwithstanding Section 16320, the Director of Finance shall, commencing with the 2006-07 fiscal year and each fiscal year thereafter, transfer moneys from the General Fund to the California Teleconnect Fund Administrative Committee Fund, to reimburse the fund, over a 15-year period, for the amount loaned to the General Fund by the fund pursuant to Item 8660-011-0493 of Section 2.00 of Chapter 157 of the Statutes of 2003. The amount transferred shall include at least ten million dollars (\$10,000,000) for the repayment of principal on the loan, and interest on the loan.~~

~~(b) This subdivision shall remain in effect only until the earlier of January 1, 2023, or until the Director of Finance determines that the principal and interest on the amount loaned to the General Fund pursuant to Item 8660-011-0493 of Section 2.00 of Chapter 157 of the Statutes of 2003 has been repaid.~~

~~SEC. 2.~~

SECTION 1. Section 280 of the Public Utilities Code is amended to read:

280.

(a) The commission shall develop, implement, and administer a program to advance universal service by providing discounted rates to qualifying schools, libraries, hospitals, health clinics, and community organizations, consistent with Chapter 278 of the Statutes of 1994.

(b) There is hereby created the California Teleconnect Fund Administrative Committee, which is an advisory board to advise the commission regarding the development, implementation, and administration of a program to advance universal service by providing discounted rates to qualifying schools, libraries, hospitals, health clinics, and community organizations, consistent with Chapter 278 of the Statutes of 1994, and to carry out the program pursuant to the commission's direction, control, and approval.

(c) All revenues collected by telephone corporations in rates authorized by the commission to fund the program specified in subdivision (a) shall be submitted to the commission pursuant to a schedule established by the commission. Commencing on October 1, 2001, and continuing thereafter, the commission shall transfer the moneys received, and all unexpended revenues collected prior to October 1, 2001, to the Controller for deposit in the California Teleconnect Fund Administrative Committee Fund. All interest earned by moneys in the fund shall be deposited in the fund.

(d) Moneys appropriated from the California Teleconnect Fund Administrative Committee Fund to the commission shall be utilized exclusively by the commission for the program specified in subdivision (a) and Section 280.1, including all costs of the board and the commission associated with the administration and oversight of the program and the fund.

(e) Moneys loaned from the California Teleconnect Fund Administrative Committee Fund to the General Fund in the Budget Act of 2003, pursuant to Item 8660-011-0493 of Section 2.00 of

~~Chapter 157 of the Statutes of 2003, are subject to Section 16320.5 of the Government Code.~~ Budget Act of 2003 are subject to Section 16320 of the Government Code. If the commission determines a need for moneys in the California Teleconnect Fund Administrative Committee Fund, the commission shall notify the Director of Finance of the need, as specified in Section 16320 of the Government Code. The commission may not increase the rates authorized by the commission to fund the program specified in subdivision (b) while moneys loaned from the California Teleconnect Fund Administrative Committee Fund in the Budget Act of 2003 are outstanding unless both of the following conditions are satisfied:

(1) The Director of Finance, after making a determination pursuant to subdivision (b) of Section 16320 of the Government Code, does not order repayment of all or a portion of any loan from the California Teleconnect Fund Administrative Committee Fund within 30 days of notification by the commission of the need for the moneys.

(2) The commission notifies the Director of Finance and the Chairperson of the Joint Legislative Budget Committee in writing that it intends to increase the rates authorized by the commission to fund the program specified in subdivision (a). The notification required pursuant to this paragraph shall be made 30 days in advance of the intended rate increase.

(f) Subdivision (e) shall become inoperative upon full repayment or discharge of all moneys loaned from the California Teleconnect Fund Administrative Committee Fund in the Budget ~~Act of 2003, pursuant to Item 8660-011-0493 of Section 2.00 of Chapter 157 of the Statutes of 2003.~~ Act of 2003.

SEC. 3 Section 280.1 is added to the Public Utilities Code, to read:

280.1.

(a) Moneys repaid to the California Teleconnect Fund Administrative Committee Fund pursuant to Section ~~16320.5~~

16320 of the Government Code, shall be deposited into the fund and upon appropriation by the Legislature, may be expended for the purpose of providing advanced telecommunication network services to community technology programs that deliver supplemental education services to pupils in grades 6 to 12, inclusive, and to health care facilities that offer telemedicine services.

(b) For purposes of this section, the following terms have the following meanings:

(1) "Administering entity" means the entity selected pursuant to subdivision (c).

(2) "Community technology program" means a program that is engaged in diffusing telecommunications technology in local communities and training local communities in the use of telecommunications technology, that otherwise would have no access, or only limited access, to the Internet and other advanced telecommunications technologies.

(3) "Health care facility" means a facility that provides health care services directly to patients, including, but not limited to, a hospital that meets the definition of a small or rural hospital as defined by the Office of Statewide Health Planning and Development, a clinic, including a licensed primary care clinic as defined in paragraph (1) of subdivision (a) of Section 1204 of the Health and Safety Code, a tribal health clinic exempt from state licensing pursuant to subdivision (c) of Section 1206 of the Health and Safety Code, and a nonprofit rural health clinic, as defined in

federal Public Law 95-210, a diagnostic or treatment center, a neuropsychiatric or mental health facility, a hospice, or a nursing home, and meets all of the following criteria:

(A) It has tax-exempt status pursuant to paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code.

~~—(B) It meets the definition of a nonprofit small or rural hospital as defined by the Office of Statewide Health Planning and Development.—~~

~~—(C)—~~

(B) It is located in a geographic area that is either deemed under federal law, or designated by the Office of Statewide Health Planning and Development, as a medically underserved area, a health professional shortage area, or as serving, in whole or in part, a medically underserved population.

(4) "Online learning resources" means community telecommunications technology programs involved in activities that include one or more of the following:

(A) Providing pupils with access to online courses in subject areas required for graduation from middle school or high school.

(B) Providing pupils with access to online tutoring or to support pupils' work in subject areas required for graduation from middle school or high school.

(C) Providing pupils with a tutor that provides assistance with accessing online information and digital resources for use as part of homework assignments.

(D) Providing pupils with a tutor who will provide remedial instruction using online resources.

(E) Preparing pupils for employment using online courses or materials, or by enabling online collaboration with industry professionals.

(F) Online coaching provided by high school or college counselors or financial aid experts.

(5) "Telemedicine" means the practice of health care delivery, diagnosis, consultation, treatment, transfer of medical data, and education using interactive audio, video, or data communications, consistent with Section 2290.5 of the Business and Professions Code.

(c) The commission, in consultation with the California Teleconnect Fund Administrative Committee, ~~shall~~ *may* appoint a third-party administrator, or more than one administrator, to administer the grant programs that may be established under this section, upon the ~~transfer~~ *repayment* of moneys from the General Fund to the California Teleconnect Fund Administrative Committee Fund pursuant to Section ~~16230.5~~ 16320 of the Government Code. Any third-party administrator appointed by the commission shall demonstrate all of the following:

(1) Experience working with low-income or underserved communities.

(2) Knowledge about, and experience in, community technology programs.

(3) The ability to implement a process for applying for and ~~awarding~~ *recommending the awarding of* grants that results in grants being awarded based upon merit.

(4) Experience and responsibility in managing and administering public trust or charitable funds.

(d) (1) Not more than the lesser of 5 percent of the moneys ~~transferred to the California Teleconnect Fund Administrative Committee Fund pursuant to Section 16320.5 of the~~

~~Government Code or five hundred thousand dollars~~
appropriated pursuant to this section or five hundred thousand dollars (\$500,000) per fiscal year, may be expended for the state's administration, including the costs of the commission and the administering entity.

(2) Upon notification by the ~~administering entity~~
commission, the Controller shall pay all grant awards, for the purposes enumerated in this section from the moneys ~~transferred to the California Teleconnect Fund Administrative Committee Fund pursuant to Section 16320.5 of the Government Code. The eligibility of each award shall be determined solely by~~ *appropriated pursuant to this section. The eligibility of each award shall be determined by* the administering entity, consistent with any procedures or rules adopted by the commission in consultation with the California Teleconnect Fund Administrative Committee. ~~Based on the eligibility of each award, the administering entity shall also establish the need for a multiyear commitment to any particular award and so advise the Department of Finance. Eligible awards submitted by the administering entity to the Controller shall be accompanied by information specifying the program from which payment should be made and the amount of each payment, a summary description of how payment of the award furthers the purposes enumerated in this section, and an accounting of future costs associated with any award or group of awards known to the administering entity to represent a portion of a multiyear funding commitment.~~

~~-(e) - (1)-~~

~~Upon the transfer of moneys from the General Fund to the California Teleconnect Fund Administrative Committee Fund pursuant to Section 16320.5 of the Government Code, the commission may establish the~~ *Teleconnect Fund Administrative Committee. The commission shall award grants based on the commission's review of the recommendations of the administering entity.*

(e) (1) *Upon the appropriation of moneys pursuant to this section, the commission may establish the Community Based Supplemental Education Demonstration Grant Program to demonstrate the benefits of community technology programs that use the advanced telecommunications networks of California's educational entities to deliver supplemental educational services to pupils.*

(2) Consistent with any procedures or rules established by the commission, in consultation with the California Teleconnect Fund Administrative Committee, the ~~administering entity selected by the commission pursuant to subdivision (e), shall~~
commission may provide community technology programs with grants pursuant to the Community Based Supplemental Education Demonstration Grant Program. Grants shall be awarded on the basis of competitive merit, for a three-year period, subject to criteria to be established by the commission, in consultation with the California Teleconnect Fund Administrative Committee ~~, by July 1, 2006~~

. The criteria shall ensure that funds are widely disbursed, and available to both urban and rural areas. Grants shall be awarded to qualifying community-based nonprofit organizations that are exempt from taxation under Section 501(c)(3) of the Internal Revenue Code for the purpose of funding projects that demonstrate the capacity for community technology programs to increase the academic achievement of pupils in grades 6 to 12, inclusive, through the use of online learning resources. Grants may be renewed on an ongoing basis, every three years, provided that the community technology

program can demonstrate that the program has contributed to the academic achievement of pupils served.

(3) ~~Beginning July 1, 2006, a~~ A community technology program may apply for and receive grants pursuant to the Community Based Supplemental Education Demonstration Grant Program, to pay costs associated with all of the following:

(A) All of the one-time costs for installing circuits that transmit data at or above 1.54 megabytes-per-second between the community technology program's site and a county office of education, a campus of the California Community Colleges, a campus of the California State University, or a campus of the University of California.

(B) Up to an additional 30 percent of the amount that the community technology program is otherwise eligible to receive pursuant to ~~Section 280~~ this section .

(C) Up to 50 percent of the estimated amount that a campus of the California Community Colleges, a campus of the California State University, or a campus of the University of California would otherwise be eligible to receive if the campus were eligible to receive discounts pursuant to Section 280 and had a 155 megabit-per-second connection from the campus to the backbone network used by the higher education segments, not including any costs related solely to telephone service.

(4) Recipients of grants under the Community Based Supplemental Education Demonstration Grant Program shall be required, as a condition for the receipt of moneys under the program, to annually report to the commission by January 1 of each year, that information required by the commission to evaluate the effectiveness of the program.

(5) The commission shall report to the Governor and the Legislature by April 1 of each year, on the results of the Community Based Supplemental Education Demonstration Grant Program, including the effect of the program on broadband subscription.

(6) The procedures and rules for awarding grants shall ensure that the grants awarded do not exceed annual moneys available to support the program and that no one applicant receive more than 25 percent of the designated program funds in a single fiscal year.

(7) Any costs associated with the Community Based Supplemental Education Demonstration Grant Program shall only be paid from the California Teleconnect Fund Administrative Committee Fund.

~~(f) - (1) -
Upon the transfer of moneys from the
General Fund to the California Teleconnect Fund Administrative
Committee Fund pursuant to Section 16320.5 of the Government Code,
the commission may establish the~~

(f) (1) Upon appropriation of moneys pursuant to this section, the commission may establish the Telemedicine Demonstration Grant Program to demonstrate the benefits of health care facilities that use advanced telecommunications networks of California educational entities or other public networks to deliver telemedicine services.

(2) Consistent with any procedures or rules established by the commission, in consultation with the California Teleconnect Fund Administrative Committee, an administering entity selected by the commission pursuant to subdivision (c), may provide

Fund Administrati ve Committee, the commission may provide health care facilities with telemedicine grants pursuant to the Telemedicine Demonstration Grant Program. Grants shall be awarded on the basis of competitive merit, for a three-year

period, subject to criteria to be established by the commission, in consultation with the California Teleconnect Fund Administrative Committee ~~by July 1, 2006~~. The criteria shall ensure that funds are widely disbursed, and available to both urban and rural areas. Grants shall be awarded to a qualifying health care facility approved for discounts pursuant to Section 280. Grants may be renewed on an ongoing basis every three years, provided that the health care facility can demonstrate effective utilization of telemedicine resources by the local community.

(3) ~~Beginning July 1, 2006, a~~ A qualifying health care facility may apply for and receive grants pursuant to the Telemedicine Demonstration Grant Program, to pay costs associated with all of the following:

(A) All of the one-time costs for installing circuits that transmit data at or above 1.54 megabytes-per-second between the health care facility and a county office of education, a campus of the California State University, or a campus of the University of California *that agrees to provide a gateway to the education network or to provide telemedicine services as defined in Section 2290.5 of the Business and Professions Code. The purpose of providing the gateway is to provide the eligible health care facility access to telecommunications services needed to provide telemedicine services and to provide access to high-speed Internet services*.

(B) Up to an additional 30 percent of the amount that the health care facility is otherwise eligible to receive pursuant to ~~Section 280~~ *this section*.

(C) Up to 50 percent of the estimated amount that a campus of the California Community Colleges, a campus of the California State University, or a campus of the University of California would otherwise be eligible to receive if the campus were eligible to receive discounts pursuant to Section 280 and had a 155 megabit-per-second connection from the campus to the backbone network used by the higher education segments, not including any costs related solely to telephone service.

(4) Recipients of grants under the Telemedicine Demonstration Grant Program shall be required, as a condition for receipt of moneys under the program, to annually report to the commission by January 1 of each year, that information required by the commission to evaluate the effectiveness of the program.

(5) The commission shall report to the Governor and the Legislature by April 1 of each year, on the results of the Telemedicine Demonstration Grant Program.

(6) The procedures and rules for awarding grants shall ensure that the grants awarded do not exceed annual moneys available to support the program and that no one applicant receives more than 25 percent of the designated program funds in a single fiscal year.

(7) Any costs associated with the Telemedicine Demonstration Grant Program shall only be paid from the California Teleconnect Fund Administrative Committee Fund.

(g) This section shall remain in effect only until January 1, ~~2023~~ 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, ~~2023~~ 2013, deletes or extends that date.